

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

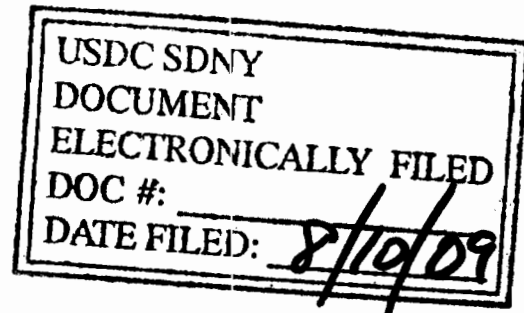
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JAIPERSAUD BIRBAL,

Petitioner,

-v.-

CHRISTOPHER SHANAHAN, FIELD OFFICE  
DIRECTOR FOR THE OFFICE OF DETENTION  
AND REMOVAL OPERATIONS FOR U.S.  
IMMIGRATIONS AND CUSTOMS  
ENFORCEMENT AT 201 VARICK STREET,  
NEW YORK, NY; WAYNE MULLER,  
ASSISTANT FIELD OFFICE DIRECTOR  
FOR THE OFFICE OF DETENTION AND  
REMOVAL OPERATIONS; JANET  
NAPOLITANO, SECRETARY OF HOMELAND  
SECURITY; ERIC HOLDER, JR., ATTORNEY  
GENERAL OF THE UNITED STATES;  
AND THE U.S. DEPARTMENT OF  
HOMELAND SECURITY,

Respondents.  
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09 Civ. 6734 (GEL)

**ORDER**

GERARD E. LYNCH, District Judge:


On July 23, 2009, petitioner Jaipersaud Birbal filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. Petitioner contends that Respondents hold him in detention without the opportunity for bail or bond assessment pursuant to an erroneous interpretation of Section 236(c) of the Immigration and Nationality Act, 8 U.S.C. § 1226(c).

For the reasons stated in Judge McMahon's careful and well-reasoned opinion in Garcia v. Shanahan, 615 F. Supp. 2d 175 (S.D.N.Y. 2009), the Court hereby orders that:

1. The Petition for Writ of Habeas Corpus is granted;
2. An Immigration Judge shall provide Petitioner with an individualized bond hearing within 10 days of the date of this Order;
3. The parties shall notify this Court of the decision of the Immigration Judge within three days after the Immigration Judge's decision has issued.
4. The application for attorneys' fees is denied.

SO ORDERED.

Dated: New York, New York  
August 6, 2009



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GERARD E. LYNCH  
United States District Judge